IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1478/2006

(Joga Ram V/s State of Rajasthan & Ors.)

Date of Order : 19/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. D.S.Udawat, for the petitioner.
Mr. Ashok Upadhyay, P.P.
Mr. Rahul Bathi]
Mr. P.R.Singh } for the respondents.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 07.08.2006 passed by the Additional Sessions Judge, Bali, district Pali (for short 'the revisional court' hereinafter) whereby the revision petition filed by the non-petitioner No.2 Hemaram against the order dated 22.7.2004 passed by Judicial Magistrate, First Class, Desuri, district Pali (for short 'the trial court' hereinafter) was allowed and the order taking cognizance dated 22.7.2004 passed by the trial court was set aside and the final negative report was accepted.

Heard learned counsel for the parties. Perused the order impugned.

It appears that a complaint was filed by complainant-petitioner Joga Ram against the non-petitioners No. 2 to 6 before the trial court. The matter was got investigated by the police and the police submitted negative final report. On protest petition filed by the petitioner, the trial court took the cognizance of the offences under Sections 465, 466, 468 and 420 r/w Section 120B IPC and issued the process against the non-petitioners. That order came to be challenged by the non-petitioner No.2 Hemaram before the revisional court. The revisional court instead of discussing the material of the case on the basis of which the revision petition was filed, has discussed the facts and evidence adduced in Criminal Revision No. 33/04 filed by petitioner Jogaram and the material available as well as the evidence in Revision No.33/04 were taken as the basis to arrive at the conclusion of this case. From the perusal of the order impugned, it also appears that the other revision No.33/04 has not been decided along with the revision No.39/04 in which the impugned order has been passed. Had the revisional court decided both the revisions by common order, to some extent the facts of other case could have been relevant, but basing a decision on the basis of facts and evidence adduced in other case, in my view, cannot be justified and therefore, the order impugned passed by the revisional court deserves to be set aside and the matter deserves to be remanded to the revisional court

to pass a fresh order.

Accordingly, the criminal misc. petition is allowed. The order impugned dated 7.8.2006 passed by the revisional court is set aside and the matter is remanded to the revisional court with a direction to decide the revision petition filed by non-petitioner No.2 Hemaram afresh on the basis of the material available in that case after affording the parties an opportunity of hearing.

(H.R.PANWAR),J.

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